IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

OP.No. 2790 of 1996(F)

PETITIONER:

G.VISWANATHAN NAIR,
FOREST CONTRACTOR,
PALLIKKAL HOUSE, ARYANKAVU.

BY ADV. SRI.K.K.JOHN

RESPONDENTS:
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1. **FOREST RANGE OFFICER, KANAYAR.**

2. **DIVISIONAL FOREST OFFICER, ACHENCOIL.**

3. **CONSERVATOR OF FORESTS, KOLLAM.**

BY GOVERNMENT PLEADER
BY ADV. SRI. RANJITH THAMPAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.4990/1996 IN O.P.NO.2790/1996 F

DISMISSED

14/06/2007 **SD/- T.R.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF LETTER DTD. 16/03/1995 BY THE PETITIONER TO THE 3RD RESPONDENT.**

EXT.P1(A): **COPY OF ACKNOWLEDGEMENT CARD DTD. 17/03/95.**

EXT.P2: **COPY OF LAWYER NOTICE DTD. 29/03/1995.**

EXT.P2(A): **COPY OF ACKNOWLEDGEMENT CARD.**

EXT.P3: **COPY OF REPRESENTATION DTD. 19/04/1995 BY THE PETITIONER TO THE CHIEF CONSERVATOR OF FOREST.**

EXT.P4: **COPY OF LETTER DTD. 24/04/1995 BY THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P5: **COPY OF LAWYER NOTICE DTD. 30/05/1995.**

EXT.P6: **COPY OF NOTICE DTD. 1/01/1996 BY THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P7: **COPY OF REPRESENTATION DTD. 16/01/1996 BYTHE PETITIONER TO THE 1ST RESPONDENT.**

EXT.P8: **COPY OF LETTER DTD. 17/01/1996 BY THE 2ND RESPONDENT TO THE PETITIONER.**

EXT.P9: **COPY OF AUCTION NOTICE PUBLISHED IN THE DESABHIMANI DAILY DTD. 4/02/96.**

/TRUE COPY/

KSS

T.R. Ramachandran Nair, J.

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O.P.NO.2790 of 1996-F

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Dated this the 14th day of June, 2007

JUDGMENT

1. The petitioner is a Forest Conservator. He had participated in an auction for sale of teak poles on 7.12.1994 and was the highest bidder. According to him, he withdrew the offer, after about 3 months. According to the respondents, the confirmation was ordered by the Chief Conservator of Forests and as per the sale condition he cannot withdraw from the auction. It is revealed from the pleadings that the parties fell through resulting in a retender of the work by the respondents.

2. This original petition is filed challenging the steps taken by the respondents to realise from the petitioner the alleged loss sustained consequent on the re-tender of the work in question. Since disputed questions of fact arises in this case which can be effectively thrashed out only based on oral and documentary evidence, the remedy of the petitioner is to file a suit before the appropriate court. The issues raised herein cannot be adjudicated under Article 226 of the Constitution of India.

3. Without prejudice to the right to file a suit, this original petition is closed. Since this original petition had been pending from 1996, the

petitioner will be entitled to avail of the period during which this original petition was pending, for the purpose of Section 14 of the Limitation Act while filing the suit.

With the above observations, this original petition is closed.

(T.R. Ramachandran Nair, Judge.)

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T.R. Ramachandran Nair, J.

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O.P.NO.2790 of 1996

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JUDGMENT

14th day of June, 2007